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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,147	11/14/2001	Bradford H. Needham	42390P12438	7425
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD, SEVENTH FLOOR LOS ANGELES, CA 90025			EXAMINER	CAPUTO, LISA M
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/003,147	NEEDHAM, BRADFORD H.
	<b>Examiner</b>	<b>Art Unit</b>
	Lisa M Caputo	2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 November 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4,7-9,11-14,20,22,24,29,35,37-44 and 47-49 is/are rejected.
- 7) Claim(s) 5,6,10,15-19,21,23,30-34,36,45,46 and 50 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                             |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                        | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### **Amendment**

1. Receipt is acknowledged of the amendment filed 13 November 2003.

### ***Claim Objections***

2. Claims 1 and 31 are objected to because of the following informalities:

Regarding claim 1, the grammar is incorrect and does not properly express what the limitations are (i.e. "A method, comprising: receiving by an article..." is indefinite because it is not known which object is receiving information).

Regarding claim 31: Please terminate the sentence appropriately with a period.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding independent claim 1, the language does not particularly point out and distinctly claim the limitations which applicant regards as the invention. For example, "A method, comprising: receiving by an article..." is indefinite because it is not known which object is receiving information. Since claims 2-10 are dependent on claim 1, these claims are also rejected.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 7-9, 11-14, 20, 22, 24-29, 35, 37-44, and 47-49, as best understood by the examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Stonedahl (US Patent Application Publication 2002/0199198).

Regarding claims 1 and 41, Stonedahl teaches a system and method for selecting, capturing, and distributing customized event recordings. Stonedahl discloses a method that comprises an order processing unit 111 that receives by an article (selection device 102) associated with an attendee (participant 101) of an event, an identifier broadcasted by a recording device making a recording of the event, the identifier identifying at least the recording of the event, and storing the identifier in a memory communicatively coupled to the article (the selection device 102 generates a selection message (emits a signal as recited in claims 2 and 42 of the instant application) that uniquely identifies the participant 101 and the time at which a selection is made. In addition, the selection device 102 provides a user identification, an identity of the event segment, and the time at which the event segment occurs. Further, the selection device may relay the selection immediately to an order processing system 11 or may store the selection for subsequent transfer to order processing system 11 by storing of selections in the memory of the selection device 102 (as recited in claims 24

and 39 of the instant application) (see Figures 1-2, paragraphs 24-40). Further, Stonedahl teaches a broadcast system 400 that interacts with systems operated by broadcaster in the implementation shown in FIG. 4. For example, the broadcaster's video and sound systems 401 are used to capture content and broadcast systems 405 are used to deliver the content in a substantially conventional fashion over radio, television, microwave, cable, satellite, or other distribution mechanisms. In accordance with the present invention, content collection and synchronization systems 403 make the content available for personalized recordings by adding synchronization identifiers (e.g., time stamps, record names, and the like) in a manner that enables order collection system 111 to synchronize participant selections with particular portions of the broadcast content. Order collection system 111 transforms the selections into orders having a suitable format for use by a production facility 113 to produce a personalized recording containing content selected by viewers/listeners 101 (see Figure 4, paragraph 42).

Regarding claim 11, Stonedahl teaches a method that comprises recording an event with a recorder that creates an event record 107 that records the entire event or sequence of events that occur together. Participants 101 are able to select any portion or segment of the event for their personalized recording. The selection device 102 generates a selection message that uniquely identifies the participant 101 and the time at which a selection is made in accordance with the interest in receiving the recording. In addition, the selection device 102 provides a user identification, an identity of the

event segment, and the time at which the event segment occurs (see Figures 1-2, paragraphs 24-40).

Regarding claims 22 and 37, Stonedahl teaches a system that comprises a recorder for recording an event (105), a badge (user selection device 102) that emits a signal identifying a badge to the recorder, and a distributor (production facility 113) for managing distribution of the recording to a party associated with the badge (see Figures 1-2 and 4, paragraphs 24-40 and 42).

Regarding claim 26, Stonedahl teaches an article that comprises a machine-accessible media having associated data (user selection device 102 may identify the participant to the system using barcode scanning or RFID technology) (see Figures 1-2, paragraphs 24-40).

Regarding claims 1, 11, 22, 26, 37, and 41 although Stonedahl does not specifically teach that the recording device broadcasts the identifier to the article (and hence the article responds with responsive signals), the entities communicate via the order processor 111 (selection device 102 communicates to the order processor 111 which communicates with the production facility 113 and central recording 115) and Stonedahl does indeed teach that broadcast facilities 115 distribute the content (from the recording device) over any available broadcast technique to the participants 101. Hence, there is communication between the recording/broadcasting device and the attendee.

In view of the teaching of Stonedahl, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the broadcasting

device to send an identifier signal to the attendee's selection device, in addition to the selection device sending the identifier information to the broadcasting device, because it is favorable to be able to confirm that the correct information is being transmitted.

Regarding claims 3-4 and 43-44, Stonedahl teaches that the article is a hand-held user selection device 102 (see Figure 1), but does not specifically teach a badge or ticket. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ this hand-held unit as a badge worn by the attendee or a ticket issued to the attendee because a ticket is a hand-held object that is able to be employed as a portable selection device, and the badge is even more favorable because it is able to be worn and hence easier for the user to handle.

Regarding claims 7, 12, 27, and 47, Stonedahl discloses the use of a short-range emitter when it is also contemplated that participant selections may be partially or fully automated. For example, a selection may be triggered by the user's proximity to an event or event segment. In an amusement park, for example, the selection device 102 may identify the participant to the system using, for example, barcode scanning or radio frequency identification (RFID) technology. The system can then automatically generate a selection on behalf of the user based on the user's presence in the proximity of the event segment. The selections indicate, for example, a user identification obtained from the selection device 102, an identity of the event segment, and the time at which the event segment occurs. Recordings of the automatically selected segment, which may include sounds and images that include the participant, can be later compiled into a

personalized recording that extracts segments from a common recording that include segments in which the participant was near by (see paragraph 38).

Regarding claims 8-9, 13-14, 20, 25, 28-29, 35, 38, 40, and 48-49, Stonedahl teaches that the recording and identifier of the recording are provided to a distributor (production facility 113) which distributes (via distribution terms) the recording to entities providing to the distributor the identifier (see Figures 1-2 and 4, paragraphs 24-40 and 42). Further, Stonedahl teaches the offering of the recording for distribution to interested parties when it is taught that personalized records 117 may be delivered in a tangible media form such as a CD/DVD, digital tape, or other content storage mechanism including magnetic, optical, and magneto-optic storage media using tangible media delivery services 121. Personalized recordings may also be provided on solid state storage media such as volatile or non-volatile memory devices often used to store music files in digital music players. Alternatively, the personalized record can be shipped electronically via electronic media delivery services 122. In the latter case, the personalized record 117 may comprise, for example, a disk image that can be placed on a hard drive or burned on a personal CD/DVD writer at a facility separate from production facility 113. FIG. 2 illustrates the systems of the present invention from another perspective in somewhat more abstract form than the perspective shown in FIG. 1 to illustrate basic functionality of the various system components. Both live event system 300 and broadcast system 400 generate content and orders, where the orders are synchronized with the content. Orders in FIG. 2 embody one or more selections shown in FIG. 1, and are handled by order processing services 111. Content in the

form, for example, of event records, is communicated electronically and/or physically with the production facility 113. Order processing services 111 can provide any necessary or desired services to transform user selections from a plurality of participants 101 and in some implementations a variety of venues, into production orders personalized records 117 for tangible media and/or electronic media delivery (see Figures 1-2, paragraphs 28-29).

***Allowable Subject Matter***

5. Claims 5-6, 10, 15-19, 21, 23, 30-34, 36, 45-46, and 50 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter:

The best prior art of record fails to specifically teach the limitations of these dependent claims. For example, regarding claims 5-6, 16-19, 23, 31-34, and 45-46, the best prior art of record fails to teach the limitations that utilize location, for example, that specific proximity relationships and vantage points are utilized when determining whether to store the identifier in the memory communicatively coupled to the article and that first and second locations are identified in order to offer information for distribution. Regarding claims 10, 15, 21, 30, 36, and 40, the best prior art of record fails to teach the use of anonymity when ordering and distributing items.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-50 have been considered but are moot in view of the new ground(s) of rejection.
8. Examiner appreciates applicant's arguments that Assisi fails to teach all of the limitations of the claims and has provided new prior art in the form of Stonedahl.

***Conclusion***

9. If a copy of a provisional application listed on the bottom portion of the accompanying Notice of References Cited (PTO-892) form is not included with this Office action and the PTO-892 has been annotated to indicate that the copy was not readily available, it is because the copy could not be readily obtained when the Office action was mailed. Should applicant desire a copy of such a provisional application, applicant should promptly request the copy from the Office of Public Records (OPR) in accordance with 37 CFR 1.14(a)(1)(iv), paying the required fee under 37 CFR 1.19(b)(1). If a copy is ordered from OPR, the shortened statutory period for reply to this Office action will not be reset under MPEP § 710.06 unless applicant can demonstrate a substantial delay by the Office in fulfilling the order for the copy of the provisional application. Where the applicant has been notified on the PTO-892 that a copy of the provisional application is not readily available, the provision of MPEP § 707.05(a) that a copy of the cited reference will be automatically furnished without charge does not apply.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Lisa M. Caputo** whose telephone number is **(571) 272-2388**. The examiner can normally be reached between the hours of 8:30AM to 5:00PM Monday through Friday. If attempts to reach the examiner by telephone are

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unsuccessful, the examiner's supervisor, Michael G. Lee can be reached at **(571) 272-2398**. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [lisa.caputo@uspto.gov].

*All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

*lmc*

LMC  
February 13, 2004

*Diane I. Lee*

DIANE I. LEE  
PRIMARY EXAMINER